



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation on **July 29, 1999**

NOTICE OF ACTION TAKEN—DOCKET OST-99-5841

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Joint Application of **DELTA AIR LINES, INC., and AEROVIAS de MEXICO, S.A. de C.V. (Aeromexico)**, filed **6/14/99**, for:

XX Exemption for Delta for two years under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between (1) Houston, Texas, and Villahermosa, Mexico; and (2) Los Angeles, California, and Aguascalientes, Mexico, and authority to combine this exemption authority with all of Delta's existing certificate and exemption authority, consistent with applicable international agreements.

XX Statement of Authorization for an indefinite period for Aeromexico under Part 212:

To display Delta's "DL" airline designator code on flights operated by Aeromexico in the Houston-Villahermosa and Los Angeles-Aguascalientes markets.

XX Request for waiver of 45-day advance filing requirement under Part 212

Applicant reps: **Robert Cohn (Delta) (202) 663-8060** DOT Analyst: **Linda L. Lundell (202) 366-2336**
William Evans (Aeromexico) (202) 371-6030

DISPOSITION

XX **Granted, in part (i.e., through June 4, 2001) exemption authority, including route integration request (see below)**

XX **Dismissed request for award of such exemption authority for a longer duration (see below)**

XX **Granted statement of authorization and waiver request (see below)**

The above action, granting exemption and route integration authority was effective when taken:

July 29, 1999, through **June 4, 2001**, or until 90 days after final Department action on a corresponding certificate application, whichever occurs earlier.

The above action, granting a statement of authorization was effective when taken: **July 29, 1999**, and will remain in effect indefinitely, subject to the conditions below.

The above action, granting a waiver of the 45-day advance filing requirement under Part 212 was effective when taken: **July 29, 1999**.

The above dismissal action was effective when taken: July 29, 1999.

Action taken by: Paul L. Gretch, Director
Office of International Aviation

XX The authority granted is consistent with the aviation agreement between the United States and Mexico.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity (Delta)

XX Standard Exemption Conditions (attached)

XX June 4, 1999, statements of authorization approving Delta/Aeromexico code-share operations, and conditions therein (see Order 99-6-6)¹

Conditions: The U.S.-Mexico exemption authority granted is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2. In addition, the exemption authority granted is limited to services provided on a code-share basis only.

The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority requested should be construed as conferring upon Delta rights (including fifth-freedom intermediate and/or beyond rights), to serve markets where U.S. carrier entry is limited unless Delta notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in Delta's authority by virtue of the route integration exemption granted here, but that are not then being used by Delta, the holding of such authority by route integration will not be considered as providing any preference for United in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

Term of Exemption Authority: Regarding Delta's request for a two-year exemption authorization, we decided, taking into account certain other U.S.-Mexico exemption authority that we recently granted to Delta (see Order 99-6-6) that, in the interest of administrative convenience, we would grant the exemption authority here coextensive with Delta's U.S.-Mexico exemption authority granted by Order 99-6-6, and that we would dismiss Delta's request for a full two-year award.

On the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we found the U.S. carrier qualified to provide the exemption services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and was consistent with Department policy; (2) grant of the authorities was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted or dismissed, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

An electronic version of this document is available on the World Wide Web at:

¹ On June 22, 1999, Delta filed a petition for reconsideration regarding certain conditions imposed on its code-share operations by Order 99-6-6. That petition is currently pending. The Department's decision on that petition will apply to the code-share services authorized here.

http://dms.dot.gov/reports/reports_aviation.asp

APPENDIX A

U.S. CARRIER **Standard Exemption Conditions**

In the conduct of operations authorized by the attached notice, the applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with the applicable requirements of the Federal Aviation Administration Regulations; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.